IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMPMO No.236 of 2006.

Date of decision 7.9.2006

Smt. Bala Devi …..**Petitioner.**

Versus

Smt. Ishwar Kaur …..**Respondent.**

Coram

Hon'ble Mr. Justice V.K.Gupta, C.J.

Whether approved for reporting?[1]

For the petitioner **Mr. Ajay Sharma, Advocate.**

For the respondent: **Mr. Ajay Kumar, Advocate.**

V.K.Gupta, C.J. (Oral)

In a suit filed by the mother-in-law against the daughter-in-law with respect to a dispute relating to possession over and in a part of the house, the learned Civil Judge (Junior Division), Court No. 1, Dharamsala vide order dated 20.4.2006 passed in CMA No. 8-VI of 2006, while disposing of the application filed under Order 39 Rules 1 and 2 CPC, injuncted the petitioner from interfering with the peaceful possession of the respondent – plaintiff in the said house, being house No. M-30, Housing Board Colony, Chilgari, Dharamsala. Feeling aggrieved, the petitioner – daughter-in-law filed Civil Miscellaneous Appeal No. 19-D/XIV-2006 against the aforesaid order and the learned District Judge, Kangra at Dharamsala vide his judgment

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[1] *Whether reporters of the local papers may be allowed to see the judgement?*

dated 7.8.2006, while upholding and maintaining the aforesaid order of the learned Civil Judge (Junior Division) continued with the aforesaid injunction against the petitioner, but with two modifications. The first was that for a period of 30 days from the date of the passing of the judgment dated 7.8.2006, the operation of the said judgment would remain suspended and secondly, the plaintiff – respondent, with the help of her son Virender Singh, shall make a suitable alternative arrangement for providing proper accommodation to the petitioner in a different house in Dharamsala town, the accommodation comprising a minimum of two rooms with all amenities etc. etc.

On 1.9.2006 when this case came up for the first time, I had directed the learned counsel to produce their respective clients in the Court today for exploring the possibility of an out of Court settlement. Even though the petitioner and the respondent as well as the son of the respondent Virender Singh have appeared today in person, no possibility of any out of Court settlement emerged and, therefore, the effort failed.

The relationship between the petitioner and her husband Virender Singh has been estranged for quite some time. Apparently a petition under section 13 of the Hindu Marriage Act was filed by the husband against the petitioner but it was later on withdrawn with liberty to file a fresh petition. The learned District Judge, in the course of the impugned judgment, has been

very candid and fair in observing at various places about the doubt he has been entertaining as to whether the petitioner is in possession of a part of the house in question or not. Even if it is assumed that the petitioner may have been in possession of a part of the house, both the Courts below have taken an over-all view and by adopting a pragmatic approach, looking to the extremely estranged relations between the parties as well as the fact that between the petitioner and her husband presently there is no love lost, injuncted the petitioner from interfering in the peaceful possession of the respondent – plaintiff in respect of the house in question thus, in the facts and circumstances also restraining the petitioner from entering the house or any part of it.

During the course of my conversation with the parties today, Virender Singh, the husband of the petitioner even though he is not a party in this petition, but accompanying his mother, stated before me that he is not living in the house in question in Chilgari and that he is living with a friend in his house in Yol, a place at a slight distant from Dharamsala town. I also talked to the petitioner Bala Devi. She admitted that even though she is living in the third floor of the house in Chilgari, Virender Singh is not living in that floor with her.

On a totality of circumstances, I feel that both the Courts below have adopted a right approach in

not relying upon the doubtful and disputed aspect relating to the possession of the petitioner and thus, restrained her from interfering with the possession of the respondent. At the same time the learned Courts below have directed the respondent to make alternative arrangements for her accommodation with the help of her son. I feel convinced that in the peculiar situation like the present one where a very volatile situation appears to be in existence, linked with highly estranged relations between the parties and the members of the family, that is the best course of action to have been adopted.

No interference is called for.

Petition dismissed.

CMP 480 of 2006.

IN view of the dismissal of the main matter, this application is also dismissed.

September 7, 2006.
(PC).

(V.K.Gupta)
Chief Justice.